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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

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Rules and Regulations Implementing the)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)	CC Docket No. 92-90

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**Motion to Permit Comments on Relevant Aspects of the Federal Trade
Commission's Amendments to the Telemarketing Sales Rule
and to Extend the Time for Reply Comments to January 15, 2003**

On December 18, 2002, the Federal Trade Commission ("FTC") issued its Final Amended Rule and Accompanying Statement of Basis and Purpose for the Telemarketing Sales Rule ("TSR").¹ Some of the amendments promulgated by the FTC relate to subjects covered by the Communications Act of 1934 as amended and the Telephone Consumer Protection Act of 1991 – areas within the jurisdiction of the Federal Communications Commission ("FCC" or the "Commission") – and involve matters addressed in the Notice of Proposed Rulemaking in this docket. The Direct Marketing Association ("DMA") requests that the FCC provide an opportunity to comment on these matters.

The amendments to the TSR include at least three provisions that directly relate to three issues that this Commission is currently considering: (1) the creation of a national

¹ See FTC Announces Final Amendments to Telemarketing Sales Rule, Including National "Do Not Call" Registry. <http://www.ftc.gov/opa/2002/12/donotcall.htm> (publication in Federal Register pending).

do-not-call registry; (2) the use of predictive dialers; and (3) caller-ID requirements. In the Notice of Proposed Rulemaking in this docket, the FCC noted that the FTC was considering a do-not-call list and sought comment on the impact that the TCPA would have on the FTC's rules when issued.² Because the comment period for the NPRM closed on December 9, 2002, there was no opportunity to review and comment upon the FTC's rules before filing comments. DMA believes that there are important issues *to* be considered now that the FTC has issued its rules.

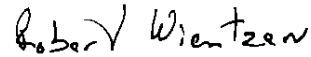
Therefore, the **DMA** respectfully requests that the Commission specify a date upon which comments on those aspects of the FTC's amendments to the TSR that are within the ambit of the TCPA and Communications Act should be filed. This additional comment period should not be permitted *to* unduly delay the prompt resolution of this proceeding. However, the issues raised by the TSR amendments are too important to be subsumed within the reply comments cycle in this docket. Therefore, a separate set of comments should be permitted for a defined period. DMA believes comments on the TSR amendments should be received until January 15, 2003.

Because this date is only one week after the date of the reply period (January 8, 2003), **DMA** suggests that the time for the submission of replies be extended to January 15 so that reply comments and separate views on the TSR amendments would be due on the same day. DMA maintains that given the extensive comments already on the record, there is no need for a reply period for comments on the provisions of the TSR that relate

² See e.g., Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, *Notice of Proposed Rulemaking and Memorandum Opinion and Order*, FCC 02-250 (Released September 18, 2002) ¶¶ 11, 16, 29, 51, 53, **55-59**

to the TCPA.’ Accordingly, reply comments and comments on the FTC’s action should be due on January 15, 2003.

Respectfully submitted,



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⁷ Although the Commission’s rules provide for a reply period, 47 C.F.R. § 1.415(c), the rules **may** be waived for good cause. *Id.* § 1.3. In addition to the comments already on the record, **DMA** believes that this Commission should consider these matters promptly to avoid further turmoil in the industry.